

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Scott R. Richardson, Director of the South Carolina Department of Insurance, as Rehabilitator of Capital Assurance Risk Retention Group, Inc.,)	Civil Action No. 3:10-cv-00124-CMC
)	OPINION AND ORDER
)	ON MOTION FOR RECONSIDERATION
Plaintiff,)	
)	
v.)	
)	
Munninghoff, Lange & Co., <i>et al.</i> ,)	
)	

Plaintiff's motion to reconsider one aspect of the order granting partial summary judgment (Dkt. No. 83) is denied. This denial is without prejudice to raising the same arguments by motion *in limine* prior to trial or in opposition to any motion for summary judgment which may rely on the challenged language in the earlier order. That language relates to Plaintiff's lack of standing to assert claims on behalf of persons or entities other than Capital Assurance Risk Retention Group, Inc. ("CARRG").

The present record is inadequate to allow the court to make a fully informed decision, in part, because Plaintiff fails to (1) specify the full language sought to be removed from the order; (2) explain how elimination of that language would impact the rationale and ruling in the order sought to be modified; (3) explain how modification of the order would impact issues yet to be decided; or (4) identify which claims, if any, are pursued on behalf of individuals or entities other than CARRG.¹ These and related issues were raised in Defendants' opposition memorandum but were

¹ The complaint is pursued in Plaintiff's capacity as rehabilitator for CARRG. It does not expressly purport to assert claims of third-parties but does, in several instances, refer to derivative damages suffered by "CARRG and its creditors, including the VSC Holders" because "CARRG's insolvency went unreported and progressively deepened." *See* Dkt. No. 1-1 ¶¶ 42, 44, 54, 55, 82, 83, 101, 102.

not addressed by Plaintiff on reply. *See* Dkt. No. 129 at 2 (noting Plaintiff fails to explain “how expanding his standing will impact his damages, his causation issues, or Defendants’ affirmative defenses.”); *id.* at 12 (noting that no claims are pursued on behalf of individuals or entities other than CARRG); *id.* at 13-15 (raising additional concerns arguably presented by the proposed expansion of standing).

Wherefore, Plaintiff’s motion to reconsider is denied without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 6, 2011